

REMARKS

Applicant respectfully requests reconsideration of this application.

Office Action Rejections Summary

Claims 1-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,148,329 of Meyer ("Meyer").

Status of Claims

Claims 1-17 remain pending in the application. No claims have been amended. No claims have been added. No new matter has been added. No claims have been canceled.

Claim Rejections

Claims 1-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Meyer. Applicants respectfully submit that claims 1-17 are patentable over Meyer.

The Office Actions states, in part:

Thus, it would have been obvious to a person of ordinary in the art at time the invention was made to modify the teachings of Meyer with repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated. This modification would allow the teachings of Meyer *to improve the accuracy and the reliability of the method and apparatus for upgrading a database in a redundant environment by release chaining, and provide a method for redelivery of messages having an associated message version number* (see col. 2, lines 60-62).

(Office Action, 1/2/03, page 3)(emphasis added).

Applicants respectfully disagree with the Office Action's assertions. Applicants respectfully submit that the rote invocation the skill of one in the art is not a sufficient basis for providing such a modification of Meyer and that it would be impermissible

hindsight, based on applicants' own disclosure, to make such a modification. Applicants respectfully submit that the Office Action has failed to point out any motivation for the asserted modification of Meyer other than the advantage provided by the Applicants' own disclosure. Indeed, it appears that the teachings of the present application have been used as a blueprint in arriving at the rejection. Such is a clear example of hindsight reconstruction and cannot properly be used as grounds for rejecting the present claims. The Office Action must show a motivation within Meyer as to why one of skill in the art, facing the problem confronting the inventor of Meyer, would be motivated to make such a purported modification of Meyer that creates the case of obviousness.

The Office Action states that the asserted modification of Meyer would "improve the accuracy and the reliability" of the Meyer method and apparatus. Applicants do not understand how the Meyer system would have an improved accuracy and the reliability, in particular, because no there is no use of intermediate versions taught in the system of Meyer and, therefore, intermediate versions would not have an effect on the updated format of Meyer. Additionally, few patents would be allowable if broad generalizations such as "improvements in accuracy and the reliability" could be used in rejections of applications to provide a motivation to modify references by one of skill in the art under 35 U.S.C. §103(a).

Moreover, applicants submit that one of skill in the art would not be motivated to modify Meyer in the manner purported by the Office Action. The object of the teachings in Meyer is to redeliver a stored message to a subscriber in a current format and to do so in a manner that **speeds up the redelivery function**. (Meyer, col. 1, lines 35-40; col. 2, lines 35-47; col. 8, line 62). One of skill in the art, facing the problems confronting the inventor of Meyer, would not be motivated to modify Meyer in the manner purported by the Office Action because the chaining of intermediate versions would slow down the

redelivery function, contrary to the teachings of Meyer. Therefore, applicants respectfully submit that claims 1-17 are patentable over Meyer.

In conclusion, applicants respectfully submit that in view of the arguments set forth herein, the applicable rejections have been overcome.

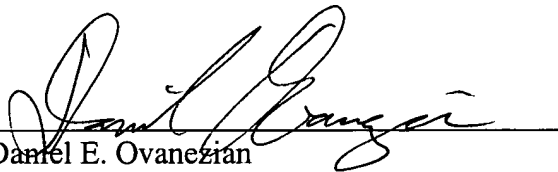
If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

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